S T A T E O F N E W Y O R K

11524--A

I N A S S E M B L Y

June 22, 2010

Introduced by COMMITTEE ON RULES -- (at request of M. of A. V. Lopez, Silver, Lentol, Millman) -- read once and referred to the Committee on Housing -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the multiple dwelling law, in relation to interim multiple dwellings in a city with a population of one million or more persons; and to amend chapter 405 of the laws of 1999, amending the real property tax law relating to improving the administration of the school tax relief (STAR) program, and the tax law, in relation to video lottery gaming

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 5 of section 281 of the multiple dwelling law, as added by a chapter of the laws of 2010, amending the multiple dwelling law relating to interim multiple dwellings in a city of more than one million persons, as proposed in legislative bills numbers S. 7178-A and A. 5667-C, is amended to read as follows:

5. Notwithstanding the provisions of paragraphs (i), (iii) and (iv) of subdivision two of this section, but subject to paragraphs (i) and (ii) of subdivision one of this section and paragraph (ii) of subdivision two of this section, the term "interim multiple dwelling" shall include buildings, structures or portions thereof that are located in a city of more than one million persons which were occupied for residential purposes as the residence or home of any [two] THREE or more families living independently from one another for a period of twelve consecutive months during the period commencing January first, two thousand eight, and ending December thirty-first, two thousand nine, PROVIDED THAT THE UNIT: IS NOT LOCATED IN A BASEMENT OR CELLAR AND HAS AT LEAST ONE ENTRANCE THAT DOES NOT REQUIRE PASSAGE THROUGH ANOTHER RESIDENTIAL UNIT TO OBTAIN ACCESS TO THE UNIT, HAS AT LEAST ONE WINDOW OPENING ONTO A STREET OR A LAWFUL YARD OR COURT AS DEFINED IN THE ZONING RESOLUTION FOR SUCH MUNICIPALITY, AND IS AT LEAST FIVE HUNDRED FIFTY SQUARE FEET IN AREA. THE TERM "INTERIM MULTIPLE DWELLING" SHALL NOT INCLUDE (I) ANY

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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BUILDING IN AN INDUSTRIAL BUSINESS ZONE ESTABLISHED PURSUANT TO CHAPTER SIX-D OF TITLE TWENTY-TWO OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK EXCEPT THAT A BUILDING IN THE WILLIAMSBURG/GREENPOINT, NORTH BROOKLYN, AND MASPETH INDUSTRIAL BUSINESS ZONES MAY BE INCLUDED IN THE TERM "INTERIM MULTIPLE DWELLING," OR (II) UNITS IN ANY BUILDING THAT, AT THE TIME THIS SUBDIVISION SHALL TAKE EFFECT, ALSO CONTAINS A USE ACTIVELY AND CURRENTLY PURSUED, WHICH USE IS SET FORTH IN USE GROUPS FIFTEEN THROUGH EIGHTEEN, AS DESCRIBED IN THE ZONING RESOLUTION OF SUCH MUNICIPALITY IN EFFECT ON JUNE TWENTY-FIRST, TWO THOUSAND TEN, AND WHICH THE LOFT BOARD HAS DETERMINED IN RULES AND REGULATION IS INHERENTLY INCOMPATIBLE WITH RESIDENTIAL USE IN THE SAME BUILDING, PROVIDED THAT IF A BUILDING DOES NOT CONTAIN SUCH ACTIVE USES AT THE TIME THIS SUBDIVISION TAKES EFFECT, NO SUBSEQUENT USE BY THE OWNER OF THE BUILDING SHALL ELIMINATE THE PROTECTIONS OF THIS SECTION FOR ANY RESIDENTIAL OCCUPANTS IN THE BUILDING ALREADY QUALIFIED FOR SUCH PROTECTIONS. A reduction in the number of occupied residential units in a building after meeting the aforementioned twelve consecutive month requirement shall not eliminate the protections of this section for any remaining residential occupants qualified for such protections. Non-residential space in a building as of the effective date of this subdivision shall be offered for residential use only after the obtaining of a residential certificate of occupancy for such space and such space shall be exempt from this article, even if a portion of such building may be an interim multiple dwelling.

S 2. Section 282 of the multiple dwelling law, as amended by a chapter of the laws of 2010, amending the multiple dwelling law relating to interim multiple dwellings in a city of more than one million persons, as proposed in legislative bills numbers S. 7178-A and A. 5667-C, is amended to read as follows:

S 282. Establishment of special loft unit. In order to resolve complaints of owners of interim multiple dwellings and of residential occupants of such buildings qualified for the protection of this article, and to act upon hardship applications made pursuant to this article, a special loft unit referred to herein as the "loft board" shall be established which shall consist of from four to nine members representative of the public, the real estate industry, loft residential tenants, and loft manufacturing interests, and a chairperson, all to be appointed by the mayor of the municipality and to serve such terms as he may designate. The compensation of the members of the loft board shall be fixed by the mayor. The members of the loft board shall not be considered employees of the state or the municipality, provided, however, that state or municipal employees or officers may be named to the loft board. The mayor shall establish the loft board within ninety days of the effective date of chapter three hundred forty-nine of the laws of nineteen hundred eighty-two. The loft board shall have such office and staff as shall be necessary to carry out functions conferred upon it and may request and receive assistance from any state or municipal agency or department. The loft board shall have the following duties: (a) the determination of interim multiple dwelling status and other issues of coverage pursuant to this article; (b) the resolution of all hardship appeals brought under this article; (c) the determination of any claim for rent adjustment under this article by an owner or tenant; (d) the issuance, after a public hearing, and the enforcement of rules and regulations governing minimum housing maintenance standards in interim multiple dwellings (subject to the provisions of this chapter and any local building code), rent adjustments prior to legalization, compliance with this article and the hearing of complaints and applications made to

it pursuant to this article; and (e) determination of controversies arising over the fair market value of a residential tenant's fixtures or reasonable moving expenses. The violation of any rule or regulation promulgated by the loft board shall be punishable by a civil penalty determined by the loft board not to exceed [one] SEVENTEEN thousand FIVE HUNDRED dollars which may be recovered by the municipality by a proceeding in any court of competent jurisdiction. THE LOFT BOARD MAY DESIGNATE PROVISIONS OF SUCH RULES AND REGULATIONS FOR ENFORCEMENT IN PROCEEDINGS BEFORE THE ENVIRONMENTAL CONTROL BOARD OF SUCH MUNICIPALITY. NOTICES OF VIOLATION RETURNABLE TO SUCH ENVIRONMENTAL CONTROL BOARD MAY BE ISSUED BY OFFICERS AND EMPLOYEES OF THE DEPARTMENT OF BUILDINGS OF SUCH MUNICIPALITY AND SERVED IN THE SAME MANNER AS VIOLATIONS RETURNABLE TO SUCH BOARD WITHIN THE JURISDICTION OF SUCH DEPARTMENT. THE ENVIRONMENTAL CONTROL BOARD, WHEN ACTING AS THE DESIGNEE OF THE LOFT BOARD, SHALL HAVE THE POWER TO IMPOSE CIVIL PENALTIES, NOT TO EXCEED SEVENTEEN THOUSAND FIVE HUNDRED DOLLARS FOR EACH VIOLATION, AND TO ISSUE JUDGMENTS, WHICH MAY BE DOCKETED AND ENFORCED AS SET FORTH IN SECTION ONE THOUSAND FORTY-NINE-A OF THE NEW YORK CITY CHARTER.

The loft board may charge and collect reasonable fees in the execution of its responsibilities. The loft board may administer oaths, take affidavits, hear testimony, and take proof under oath at public or private hearings.

S 3. The multiple dwelling law is amended by adding a new section 282-a to read as follows:

S 282-A. LIMITATION ON APPLICATIONS FOR COVERAGE OF INTERIM MULTIPLE DWELLINGS AND RESIDENTIAL UNITS. ALL APPLICATIONS FOR REGISTRATION AS AN INTERIM MULTIPLE DWELLING OR FOR COVERAGE OF RESIDENTIAL UNITS UNDER THIS ARTICLE SHALL BE FILED WITH THE LOFT BOARD WITHIN SIX MONTHS AFTER THE DATE THE LOFT BOARD SHALL HAVE ADOPTED ALL RULES OR REGULATIONS NECESSARY IN ORDER TO IMPLEMENT THE PROVISIONS OF THE CHAPTER OF THE LAWS OF 2010 WHICH ADDED THIS SECTION. THE LOFT BOARD MAY SUBSEQUENTLY AMEND SUCH RULES AND REGULATIONS BUT SUCH AMENDMENTS SHALL NOT RECOMMENCE THE TIME PERIOD IN WHICH APPLICATIONS MAY BE FILED. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, AFTER SUCH DATE NO FURTHER APPLICATIONS FOR REGISTRATION OR COVERAGE AS AN INTERIM MULTIPLE DWELLING OR FOR COVERAGE UNDER THIS ARTICLE SHALL BE ACCEPTED FOR OWNERS OR OCCUPANTS OF BUILDINGS THAT WOULD OTHERWISE QUALIFY AS INTERIM MULTIPLE DWELLINGS OR FOR COVERAGE PURSUANT TO THIS ARTICLE.

S 4. Section 1 of part J of chapter 405 of the laws of 1999, amending the real property tax law relating to improving the administration of the school tax relief (STAR) program, as amended by section 1 of part A of chapter 134 of the laws of 2010, is amended to read as follows:

Section 1. Notwithstanding the provisions of article 5 of the general construction law, the provisions of the tax law amended by sections 94-a, 94-d and 94-g of chapter 2 of the laws of 1995 are hereby revived and shall continue in full force and effect as they existed on March 31, 1999 [through July 2, 2010, when upon such date they shall expire and be repealed]. Sections 1, 2, 3, 4, and 5, and such part of section 10 of chapter 336 of the laws of 1999 as relates to providing for the effectiveness of such sections 1, 2, 3, 4 and 5 shall be nullified in effect on the effective date of this section, except that the amendments made to: paragraph (2) of subdivision a of section 1612 of the tax law by such section 1; and subdivision b of section 1612 of the tax law by such section 2; and the repeal of section 152 of chapter 166 of the laws of 1991 made by such section 5 shall continue to remain in effect.

S 5. Paragraph 1 of subdivision a of section 1612 of the tax law, as amended by chapter 336 of the laws of 1999, is amended to read as follows:

(1) sixty percent of the total amount for which tickets have been sold for a lawful lottery game introduced on or after the effective date of this paragraph, subject to the following provisions:

(A) [drawings in such game shall be held during no more than thirteen hours each day, no more than eight hours of which shall be consecutive;

(B)] such game shall be available only on premises occupied by licensed lottery sales agents, subject to the following provisions:

(i) if the licensee holds a license issued pursuant to the alcoholic beverage control law to sell alcoholic beverages for consumption on the premises, then not less than twenty-five percent of the gross sales must result from sales of food;

(ii) if the licensee does not hold a license issued pursuant to the alcoholic beverage control law to sell alcoholic beverages for consumption on the premises, then the premises must have a minimum square footage greater than two thousand five hundred square feet;

(iii) notwithstanding the foregoing provisions, television equipment that automatically displays the results of such drawings may be installed and used without regard to the percentage of food sales or the square footage if such premises are used as:

(I) a commercial bowling establishment, or

(II) a facility authorized under the racing, pari-mutuel wagering and breeding law to accept pari-mutuel wagers;

[(C)] (B) the rules for the operation of such game shall be as prescribed by regulations promulgated and adopted by the division, provided however, that such rules shall provide that no person under the age of twenty-one may participate in such games on the premises of a licensee who holds a license issued pursuant to the alcoholic beverage control law to sell alcoholic beverages for consumption on the premises; and, provided, further, that such regulations may be revised on an emergency basis not later than ninety days after the enactment of this paragraph in order to conform such regulations to the requirements of this paragraph; or

S 6. This act shall take effect immediately; provided, however, sections one, two and three of this act shall take effect on the same date and in the same manner as a chapter of the laws of 2010, amending the multiple dwelling law relating to interim multiple dwellings in a city of more than one million persons, as proposed in legislative bills numbers S. 7178-A and A. 5667-C, takes effect.